

PT 95-58
Tax Type: PROPERTY TAX
Issue: Charitable Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

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THE CUNEO FOUNDATION      )   Docket #   92-49-163  
      Applicant           )   Parcel Index # 11-33-200-002  
                           )                       (Lake County)  
                           )  
      v.                   )  
                           )  
THE DEPARTMENT OF REVENUE )   George H. Nafziger  
OF THE STATE OF ILLINOIS )   Administrative Law Judge  
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RECOMMENDATION FOR DISPOSITION

APPEARANCES: Attorney William G. Myers appeared on behalf of The Cuneo Foundation (hereinafter referred to as the "Applicant").

SYNOPSIS: The hearing in this matter was held at 100 West Randolph Street, Chicago, Illinois, on June 6, 1994, to determine whether or not Lake County parcel No. 11-33-200-002 and the buildings thereon, should be exempt from real estate taxes for the 1992 assessment year.

Mr. Roger Byrne, mayor of Vernon Hills, Ms. Gail Svendsen, president of the Lake County Convention and Visitor's Bureau, Ms. Barbara Hirschfeld, executive director of the Cuneo Museum and Gardens (hereinafter referred to as the "Museum"), and Ms. Karen Beasley, volunteer tour guide and children's art fair coordinator for the Museum, were present and testified on behalf of the applicant.

The issues in this matter include first, whether or not the applicant is a charitable organization. Another issue is whether the applicant owned this parcel and the buildings thereon, during the 1992 assessment year. The final issue is whether the applicant used the parcel here in issue and the buildings thereon, for charitable purposes during the 1992 assessment year. Following the submission of all of the evidence and a review of the

record, it is determined that the applicant is a charitable organization. It is also determined that the applicant owned the parcel here in issue and the buildings thereon, during the 1992 assessment year. It is further determined that this parcel and the buildings thereon, were used for charitable purposes during the 1992 assessment year, except for the gift shop and the swimming pool on the first floor of the mansion, and the laundry room and changing rooms in the basement of the mansion, as well as the area where the Standard Tent was erected, and buildings numbered 7, 12, 14, 15, 16, 10, 13, and 18, as identified on the plat, and the land on which each of said buildings was located.

FINDINGS OF FACT:

1. The position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that the parcel here in issue and the buildings thereon, did not qualify for exemption during the 1992 assessment year, was established by the admission in evidence of Department's Exhibits numbered 1 through 6B.

2. On December 17, 1992, the Lake County Board of Review transmitted an Application for Property Tax Exemption To Board of Review, concerning this parcel and the buildings thereon, for the 1992 assessment year, to the Department (Dept. Ex. No. 2).

3. On February 4, 1993, the Department denied the exemption of this parcel and the buildings thereon, for the 1992 assessment year (Dept. Ex. No. 3).

4. On February 19, 1993, the attorney for the applicant requested a formal hearing in this matter (Dept. Ex. No. 4).

5. The hearing in this matter which was held on June 6, 1994, was held pursuant to that request.

6. On April 30, 1977, Mr. John F. Cuneo, Sr. died, owning the 103-acre parcel here in issue.

7. Mr. Cuneo left a Last Will, with seven codicils. By the provisions of these documents, Mr. Cuneo left the main residence and 15 surrounding acres located on this parcel to the applicant, subject to a life estate to his surviving spouse, Julia S. Cuneo. Mrs. Cuneo received the remainder of this 103-acre parcel in fee.

8. Julia S. Cuneo died on July 23, 1990, leaving a Last Will dated August 1, 1986, which left the portion of this 103-acre parcel which she had received in fee from her husband, to the applicant.

9. Consequently, on August 13, 1990, when Mrs. Cuneo's Will was admitted to probate, the applicant became the fee owner of this entire 103-acre tract and the buildings thereon.

10. The applicant was incorporated, pursuant to the "General Not For Profit Corporation Act" of Illinois, on December 24, 1945, for purposes, which among others, included the following:

"For religious, charitable, scientific and educational purposes within the United States of America and its possessions; to expend, contribute, disburse, transfer and otherwise handle, dispose of and apply the corporate funds, including the net income from such properties and funds as may be income-producing, exclusively for said purposes, either directly by grants or contributions to other funds, trusts, corporations, or foundations now existing or hereafter formed for such purposes, or any of said purposes, whether the same are caused to be formed by this corporation or others,...."

11. During 1992, the applicant contributed \$908,613.35 to various religious, educational, and charitable institutions.

12. During 1992, the applicant had no capital, capital stock, or shareholders, and did not profit from the enterprise.

13. The applicant's funds, during 1992, were derived from public and private charity, and were held in trust for the objects and purposes expressed in its charter.

14. During the fall of 1990, the applicant began to restore the main house and grounds on this parcel, and prepared to open it as the Museum.

15. A curator was hired in February of 1991.

16. A food service contract was entered into in June of 1991, and this parcel was opened to the public on July 1, 1991.

17. The mansion was designed in 1914, by architect, Benjamin Marshall, for Samuel Insull.

18. Mr. Cuneo bought the mansion in 1937. The Cuneo family lived in the mansion from 1937 until 1990.

19. The mansion features a 40 foot high great hall with arcaded balconies, a skylighted ceiling, and a grand staircase.

20. The mansion contains numerous Italian old masters paintings, 17th century tapestries, an outstanding collection of oriental rugs, sculpture, silver, and Capodimonte porcelain.

21. During 1992, the collections in the mansion were valued at approximately eight million dollars.

22. The Cuneo mansion, which is the museum, is a large two-story residence with a basement. It is identified with the No. 1 on the Edward J. Molloy and Associates, Ltd. plat of survey of Lake County parcel No. 11-33-200-002 (Dept. Ex. No. 2V #1).

23. Behind the mansion and identified as No. 2, is the outdoor swimming pool and pool house (Dept. Ex. No. 2V #2).

24. No. 3, on the plat, is a 12 foot by 14 foot masonry building, which was the children's playhouse (Dept. Ex. No. 2V #3).

25. No. 4, on the plat, are the greenhouses and flower conservatory, which are used to raise the flowers and plantings, which are found in the formal gardens and other areas of this parcel. (Dept. Ex. No. 2V #4).

26. No. 5, on the plat, is a storage shed used to store grounds, garden, and maintenance equipment, which is used on this parcel (Dept. Ex. No. 2V #5).

27. No. 6, on the plat, is the deer shed, which provides shelter for

the herd of white Fallow deer, which have been on the property since 1915 (Dept. Ex. No. 2V #6).

28. No. 7, on the plat, is a one-story concrete block structure, which measures approximately 80 feet by 146 feet. This building was built to house the antique carriage collection of John F. Cuneo, Sr. During 1992, this building was vacant, and not used for any purpose (Dept. Ex. No. 2V #7).

29. No. 8, on the plat, is the well house, which houses the well and pump, which provides water to all the buildings on this parcel (Dept. Ex. No. 2V #8).

30. No. 9, on the plat, is the water tower and water tower building, which are also part of the water system for this 103 acres (Dept. Ex. No. 2V #9).

31. No. 10, on the plat, is a one-story residence occupied during 1992, by the director of grounds for the Museum, Mr. Delphino Parra (Dept. Ex. No. 2V #10).

32. No. 11, on the plat, is the farm office, which is a one-story masonry building, which during 1992, was used for offices and storage space for various groups operating within the Museum (Dept. Ex. No. 2V #11).

33. No. 12, on the plat, was a former dog kennel, which was vacant and in disrepair, during 1992. (Dept. Ex. No. 2V #12).

34. No. 13, on the plat, during 1992, was the frame residence of the chief of security for the Museum, Mr. Thomas Cambell (Dept. Ex. No. 2V #13).

35. Nos. 14, 15, and 16, on the plat, are frame sheds, which were vacant and unused, during 1992 (Dept. Ex. No. 2V #s 14, 15 & 16).

36. No. 17, on the plat, is a two-story frame barn. The first floor of the barn was used during 1992, by the Museum for storage, which included four Cuneo family limousines (Dept. Ex. No. 2V #17).

37. The second floor of this barn, during 1992, was a six-room apartment, which was the residence of the executive director of the Museum, Ms. Barbara Hershfeld.

38. No. 18, on the plat, during 1992, was the one-story masonry residence of the groundskeeper, Mr. John Byrne (Dept. Ex. No. 2V #18.).

39. No. 19, on the plat, is a small structure, which was the pumping station for the small pond behind the golf course (Dept. Ex. No. 2V #19).

40. No. 20, on the plat, is a small building located on the entry road to the property, which serves as the ticket office for the Museum (Dept. Ex. No. 2V #20).

41. As shown on the plat of survey, the grounds also included several ponds and a 7-hole golf course, which was not in use during 1992.

42. At the west end of the outdoor swimming pool, there was a stage with a proscenium, and Corinthian columns to either side.

43. There are several areas of formal gardens to the west and north of the mansion, near the pool.

44. To the north and west of these gardens, is a large paved visitor's parking area.

45. The first floor of the mansion, during 1992, was mostly used as a museum, displaying the way the Cuneo family used the house when they lived there, and also displaying the family's tapestry, furniture, silver, and art collections.

46. A portion of the kitchen, during 1992, was used by the Museum as a gift shop. The gift shop sold souvenir-type items, such as the Museum guidebook, postcards, T-shirts, and the like.

47. The gift shop also included an art gallery area of juried paintings by local artists, which the Museum accepted on consignment.

48. When the Museum sold a painting, the Museum received 40% of the proceeds, and the artist received 60%.

49. It was estimated that the gift shop sold approximately 20 paintings during 1992.

50. During June 1991, the Applicant entered into a Food and Beverage Agreement (hereinafter referred to as the "Agreement"), with George L. Jewell Catering Services, Ltd. (hereinafter referred to as "Jewell"), to provide food service to persons visiting the parcel here in issue, and the Museum during the period July 1, 1991, through June 30, 1993 (Dept. Ex. No. 2K).

51. During 1992, this parcel and the Museum were open from 10:00 A.M. to 6:00 P.M. Tuesday through Sunday, year-round, except for the month of January.

52. Pursuant to the Agreement, Jewell was obligated to provide luncheon service between 11:30 A.M. and 1:30 P.M. on each day the Museum was open, in the Standard Tent.

53. The Standard Tent is a large heated, lighted tent, which includes facilities for serving food, as well as facilities for music, and a dance floor. This tent is erected over a paved area adjacent to the mansion. The Standard Tent is erected and used during the time of the year when the weather permits.

54. During 1992, when the tent was not up, or was not usable, lunch was served in the area around the indoor pool. That area had limited seating, up to about seventy-five persons.

55. Jewell also served a Sunday Brunch.

56. All food was prepared elsewhere, and was brought in and served in the Standard Tent, or around the indoor pool.

57. Prices for the daily lunch, during 1992, ranged from \$2.75 for a cup of soup, to \$10.00 or \$12.00, for a complete lunch. The price for the Sunday brunch, during 1992, was \$18.00 for adults, and \$9.00 for children.

58. Pursuant to the Agreement, Jewell was allowed to use the laundry

room and changing rooms in the basement of the mansion, but no other area in the mansion.

59. Pursuant to the Agreement, Jewell had the exclusive right to provide food service on this parcel. During 1992, persons visiting the Museum and gardens were not even allowed to bring a picnic lunch with them.

60. The Museum sponsored various charity functions and concerts at the mansion at times other than regular visiting hours.

61. The grounds, including the Standard Tent, were rented out during 1992, for various private parties, weddings, receptions, and the like, usually, at times other than regular Museum hours.

62. The Agreement also provided that, with the permission of the Museum, Jewell could schedule events of its own at the Standard Tent at times other than regular Museum hours. The 1992 schedule of Special Events listed 12 such Jewell events (Dept. Ex. No. 4F).

63. Pursuant to the Agreement, Jewell paid \$30,277.21 in food sales commissions, to the applicant during 1992.

64. During 1992, the charge for admission to the grounds and museum for adults was \$11.00. Admission to the grounds only was \$4.00.

65. For senior citizens, the charge for admission to the grounds and museum was \$9.00, and for the grounds only \$3.00.

66. For children 12 and under, the charge for admission to the grounds and museum was \$6.00, and for the grounds only \$2.00.

67. For groups of 15 or more persons, the charge for admission to the grounds and museum was \$8.00.

68. There was not a separate charge for parking during 1992.

69. The board of directors of the applicant, during 1992, had given the executive director the authority to waive, or reduce fees, in cases of need.

70. The executive director indicated that she did in fact waive, or

reduce fees, when requested to do so during 1992. If a question concerning waiver, or reduction of fees, arose at the entry gate, the employees at that location were instructed either to contact the executive director or director of security, who were authorized to waive, or reduce fees.

71. During 1992, applicant offered a membership program.

72. A regular membership was \$45.00. The regular membership entitled two adults to free admission to the museum and gardens, a 10% discount in the museum gift shop, and a free lunch in the museum cafe.

73. A family membership, during 1992, was \$75.00. A family membership entitled two adults and two children to the foregoing privileges.

74. Finally, there was a category of associate membership available during 1992. This membership included the foregoing privileges for four adults, plus a 10% discount on grounds fees and Museum rentals.

75. During 1992, four of the buildings on the 103 acres were occupied as residences. The house identified as No. 10, on the plat, was occupied by the director of grounds of the Museum. The house identified as No. 13, on the plat, was occupied by the chief of security of the Museum. The second floor apartment in the barn identified as No. 17, on the plat, was occupied by the executive director of the Museum. The residence identified as No. 18, on the plat, was occupied by the groundskeeper of the Museum.

76. It was a condition of their employment that each of those persons live on the grounds. None of these persons paid rent to the applicant during 1992.

77. The applicant paid the gas and electricity for each of those residences during 1992.

78. Each of those persons paid their own telephone bill, and their telephone numbers were listed in their individual names in the telephone directory.

79. The executive director's apartment on the second floor of the barn,

designated as No. 17, on the plat, during 1992, contained two offices which she used in connection with her work for the Museum.

80. The first of those offices contained the Cuneo family papers and archives, which she was in the process of trying to organize.

81. There also was a smaller office where she worked on the Museum budget, and evaluated the Museum staff during the evening hours.

82. During 1992, she occasionally held meetings with the docents and volunteers for the Museum in her residence.

83. She also had an office in the mansion.

84. The chief of security, Thomas Cambell, who occupied the house identified as No. 13, on the plat, during 1992, did not perform any of his duties in his residence. He was on call 24 hours a day.

85. The groundskeeper, Mr, John Byrne, who occupied the house identified as No. 18, on the plat, during 1992, did not perform any of his duties in his residence.

86. The director of grounds, Mr. Delphino Parra, occupied the house identified as No. 10, on the plat, during 1992. While one of the witnesses speculated that he might have done some design work in his residence, no evidence was offered to support that speculation.

87. The mansion is protected by both fire sensors and entry sensors, which are monitored by ADT Alarm Company.

88. In case of an alarm, ADT would notify either the Vernon Hills Police Department or the Countryside Fire Department, whichever was appropriate.

89. The Museum, during 1992, maintained a security force of four full-time and eight to twelve part-time security guards. There was a security guard on duty inside the mansion every night during 1992.

90. Based on the foregoing, I find that the Applicant owned the parcel here in issue during 1992.

91. During 1992, the Applicant had no capital, capital stock, or shareholders, and did not profit from the enterprise.

92. The Applicant's primary sources of funds, during 1992, included public and private charity, as well as Museum gate admissions, restaurant commissions, and special events charges.

93. Since the Museum waived, or reduced fees, in cases of need, I find that the benefits of the Museum were available to an indefinite number of persons, that charity was dispensed to all who needed and applied for it, and that no obstacles were placed in the way of those seeking the benefits.

94. I find that the Museum used the parcel here in issue and the buildings thereon, for charitable purposes, except for the following itemized areas or buildings.

95. The gift shop on the main floor of the mansion was primarily used for profit during 1992, as a result of the consignment sales of art there.

96. The area occupied by the Standard Tent, the indoor pool area on the first floor of the mansion, and the laundry area and change rooms in the basement of the mansion, I find, were leased to Jewell for profit during 1992.

97. Buildings numbered 7, 12, 14, 15, and 16, as shown on the plat of survey and the land on which they were each located, I find, were vacant and not used during 1992.

98. Finally, I find that the buildings numbered 10, 13, and 18, on the plat, and the land on which they were each located, were primarily used for residential purposes, and not charitable purposes during 1992, by the Museum's director of grounds, chief of security, and groundskeeper, respectively.

CONCLUSIONS OF LAW: Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

"The General Assembly by law may exempt from taxation only the property of the State, units of local government and school

districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes."

35 ILCS 205/19.7 exempts certain property from taxation in part as follows:

"All property of institutions of public charity, all property of beneficent and charitable organizations, whether incorporated in this or any other state of the United States,...when such property is actually and exclusively used for such charitable or beneficent purposes, and not leased or otherwise used with a view to profit;...."

35 ILCS 205/19.16 exempts certain property from taxation in part as follows:

"Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided hereinbefore...and owned by any...charitable institution which meets the qualifications for exemption."

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. *International College of Surgeons v. Brenza*, 8 Ill.2d 141 (1956); *Milward v. Paschen*, 16 Ill.2d 302 (1959); and *Cook County Collector v. National College of Education*, 41 Ill.App.3d 633 (1st Dist. 1976). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. *People ex rel. Goodman v. University of Illinois Foundation*, 388 Ill. 363 (1944) and *People ex rel. Lloyd v. University of Illinois*, 357 Ill. 369 (1934). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. *MacMurray College v. Wright*, 38 Ill.2d 272 (1967); *Girl Scouts of DuPage County Council, Inc. v. Department*, 189 Ill.App.3d 858 (2nd Dist. 1989); and *Board of Certified Safety Professionals v. Johnson*, 112 Ill.2d 542 (1986).

In the case of *People ex rel. Scott v. Harding Museum*, 58 Ill.App.3d

408 (1st Dist. 1978), the Court held that a museum may qualify as a charitable organization.

Concerning whether or not the applicant qualifies as a charitable organization, in the case of *Methodist Old Peoples Home v. Korzen*, 39 Ill.2d 149 (1968), the Illinois Supreme Court laid down five guidelines to be used in determining whether or not an organization is charitable. Those five guidelines read as follows: (1) the benefits derived are for an indefinite number of persons; (2) the organization has no capital, capital stock, or shareholders, and does not profit from the enterprise; (3) funds are derived mainly from private and public charity, and are held in trust for the objects and purposes expressed in the charter; (4) charity is dispensed to all who need and apply for it; and (5) no obstacles are placed in the way of those seeking the benefits. Based on the foregoing, I conclude that the applicant met each of the foregoing five guidelines.

The next matter to be considered then, is what portions of this 103-acre parcel and the buildings thereon, were used by the Museum for charitable purposes during the 1992 assessment year. Generally, I conclude that the mansion and the entire 103 acres of grounds, during 1992, served as a museum of the life style of the family of a wealthy American industrialist of the 1930s and 40s. In addition, the mansion also served as a museum of the valuable art, tapestry, oriental rug, sculpture, silver, and porcelain collections, of the Cuneo family. However, certain specific buildings and the ground on which they stood, and certain areas of the mansion, were not used for primarily charitable purposes during 1992. In the situation where an identifiable portion of a property was used for an exempt purpose, while the remainder was used primarily for nonexempt purposes, or not at all, the Illinois Courts have held that the portion used for exempt purposes qualified for exemption, and the remainder did not qualify. *City of Mattoon v. Graham*, 386 Ill. 180 (1944); *Highland Park*

Hospital v. Department of Revenue, 155 Ill.App.3d 272 (2nd Dist. 1987); and Fairview Haven v. Dept. of Revenue, 153 Ill.App.3d 763 (4th Dist. 1987).

The first group of buildings, which I conclude, did not qualify for exemption during 1992, were buildings numbered 7, 12, 14, 15, and 16, on the plat. As previously described, each of those buildings was vacant, and not used during 1992.

In the case of People ex rel. Pearsall v. The Catholic Bishop of Chicago, 311 Ill. 11 (1924), the Illinois Supreme Court held that the mere fact that a property was intended to be used for an exempt purpose was not sufficient to exempt said property. The Court required that the actual primary exempt use must have begun for the property to be exempt. In the case of Antioch Missionary Baptist Church v. Rosewell, 119 Ill.App.3d 981 (1st Dist. 1983), the Court held that property which was vacant and not used, did not qualify for the statutory exemption as property used exclusively for religious purposes, regardless of the owner's intent.

I therefore conclude that buildings numbered 7, 12, 14, 15, and 16, as shown by the plat, and the land on which the said vacant buildings were located, did not qualify for exemption during 1992, as they were not used for primarily charitable purposes during that year.

Next, lets consider the gift shop on the first floor of the mansion where the Museum, during 1992, sold art work on consignment, and the areas occupied by Jewell in its operation of its for-profit food service, in exchange for which it paid the applicant food sales commissions. The areas occupied by Jewell included the ground area where the Standard Tent was placed, and the indoor pool area on the first floor of the mansion, as well as the laundry area and change rooms in the basement of the mansion. Each of the aforementioned areas have previously been found to have been either used to produce income, or leased for profit, during 1992 .

It should be noted that the Illinois Courts have consistently held

that the use of property to produce income is not an exempt use, even though the net income is used for exempt purposes. *People ex rel. Baldwin v. Jessamine Withers Home*, 312 Ill. 136 (1924). See also *The Salvation Army v. Department of Revenue*, 170 Ill.App.3d 336 (2nd Dist. 1988), leave to appeal denied. It should also be noted that if property, however owned, is let for a return, it is used for profit, and so far as its liability for taxes is concerned, it is immaterial, whether the owner makes a profit, or sustains a loss. *Turnverein "Lincoln" v. Board of Appeals*, 358 Ill. 135 (1934).

I therefore conclude that the gift shop on the first floor of the mansion, the ground area where the Standard Tent was placed, the indoor pool area on the first floor of the mansion, and the laundry and change rooms in the basement of the mansion, were all used to produce income during 1992, and consequently, were not primarily used for charitable purposes during 1992.

The applicant's attorney, in his argument, cites the case of *Highland Park Womens Club and Ravinia Festival Association v. Department of Revenue*, 206 Ill.App.3d 447 (2nd Dist. 1990), in which the Court held that restaurants and food concession stands operated by the Levy Brothers Organization (hereinafter referred to as "Levy"), at Ravinia, qualified for exemption. That case is distinguishable from the case here in issue in several respects. First, Levy only had a nonexclusive license with Ravinia, and second, Levy's restaurants and stands were only open during performances. In this case, Jewell had an exclusive right to provide food service on this parcel, even to the point that visitors were not allowed to picnic on the parcel. Also, Jewell provided food service for the Museum's private parties and events, at times when the Museum was not open to the public, and finally, Jewell was allowed to book its own events when the Museum was not open to the public, and in fact, did so on at least 12

occasions during 1992.

Finally, let's consider the four residences located on this parcel. The house identified as No. 10, on the plat, was occupied by the director of grounds of the Museum, Mr. Delphino Parra, during 1992. The house identified as No. 13, on the plat, was occupied by the chief of security of the Museum, Mr. Thomas Cambell, during 1992. The second floor apartment in the barn identified as No. 17, on the plat, was occupied by the executive director of the Museum, Ms. Barbara Hirschfeld, during 1992. The residence identified as No. 18, on the plat, was occupied by the groundskeeper of the Museum, Mr. John Byrne.

In the case of *MacMurray College v. Wright*, 38 Ill.2d 272 (1967), the Supreme Court considered whether or not faculty and staff housing owned by a college, was used for school purposes. In that case, the Court applied a two-part test. First, were the residents of the houses required to live in their residences because of their exempt duties for the college, or were they required to, or did they perform any of their exempt duties there?

Concerning the executive director's apartment, the evidence established that she had two offices there, and performed the exempt duties, in those offices, of trying to organize the Cuneo family papers, as well as working on the Museum budget and the evaluations of the Museum staff. She also held meetings with the docents and volunteers there. I therefore conclude that the apartment on the second floor of the building identified as No. 17, on the plat, was used for charitable purposes during 1992.

The Courts have more recently applied the *MacMurray* tests to caretakers' residences in *Benedictine Sisters of the Sacred Heart v. Department of Revenue*, 115 Ill.App.3d 325 (2nd Dist 1987); *Lutheran Child and Family Services of Illinois v. Department of Revenue*, 160 Ill.App.3d 420 (2nd Dist. 1987); and also *Cantigny Trust v. Department of Revenue*, 171

Ill.App.3d 1082 (2nd Dist. 1988). In the Benedictine Sisters case, the Court considered whether or not three caretakers' residences on the grounds of a convent qualified for exemption. The Court applied the MacMurray case tests, and at page 329, concluded as follows:

"Obviously the Caretaker's residences here do not meet either test, as the caretakers are not performing any religious duties, and as no religious activities are carried on in the residences."
(Emphasis supplied)

In this case, the foregoing reasoning is applicable to both the house which is identified as No. 10, on the plat, and the house which is identified as No. 18, on the plat, as the occupants of those houses were neither engaged in charitable activities, nor was it established that either of them performed any of their duties in their residences.

This leaves, then, the residence of the chief of security, which is identified as No. 13, on the plat. It is undisputed that he does not perform any of his duties in his residence. As far as security is concerned, the mansion where the valuable art objects are located is equipped with both fire sensors and entry sensors which are wired to the alarm company, which then notifies the appropriate government agency. In addition, the Museum, has a security staff which totals 12 persons, one of whom was on duty in the mansion every night during the 1992 assessment year. I therefore conclude that it was not reasonably necessary that the security chief reside on the grounds.

I consequently recommend that Lake County parcel No. 11-33-200-002 and the buildings thereon, be exempt from real estate tax for 1992, except for the gift shop and the swimming pool on the first floor of the mansion, the laundry and changing rooms in the basement of the mansion, as well as the area where the Standard Tent was erected, and buildings numbered 7, 12, 14, 15, 16, 10, 13, and 18, as identified on the plat, and the land on which each of said buildings was located.

I further recommend that the gift shop and the swimming pool on the

first floor of the mansion, the laundry and changing rooms in the basement of the mansion, as well as the area where the Standard Tent was erected, and buildings numbered 7, 12, 14, 15, 16, 10, 13, and 18, as identified on the plat, and the land on which each of said buildings was located, remain on the tax rolls for the 1992 assessment year, and be assessed to the applicant herein, The Cuneo Foundation, the owner thereof.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge

August , 1995